

Remarks

The Examiner withdrew claims 1–17 from consideration and rejected claims 18–69. The title of the invention and claims 18, 24–27, 36, 42, 51, 58, 59, and 66 have been amended. Claims 23 and 41 have been canceled. Claims 18–22, 24–40, and 42–69 remain in the application.

Applicant's undersigned attorney thanks Examiner Lobo for discussing the Office Action over the telephone on March 1, 2006. Topics discussed included the 35 USC § 103(a) rejection of the claims and the associated references. The Examiner suggested amending claim 18 to incorporate features of claim 23.

Independent claims 18, 36, and 51 have been amended to further define the structure of applicant's invention and to correct a transcriptional error in the text of the claim by replacing the term "steering device" with "control device" to be internally consistent. Claim 18 has been amended to include features of original claim 23, as suggested by the Examiner in the telephone conference. In the same vein, claim 36 has been amended to include features of original claim 41, and claim 51 has been amended to include features of original claim 59. Claims 23 and 41 have been canceled in view of their amended parent claims 18 and 36. Claim 58 has been amended to define a unitary wing structure and to depend from dependent claim 57. Claim 59 has been amended to depend from and comport with currently amended claim 51. Claim 66 has been amended to depend from claim 59. Claims 24–27 have been amended to depend from claim 18. None of the amendments adds new matter to the original disclosure.

The Examiner rejected claims 24–27 under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. The Examiner is correct in his observation that claims 24–27 should have depended from original claim 23, and not claim 22. That clerical error has been corrected by depending claims 24–27 from claim 18, which now includes the necessary antecedents present in original claim 23, now canceled.

The Examiner rejected claims 18–69 under 35 USC § 103(a) as being unpatentable over either one of U.S. Patent 6,016,286 (Olivier et al.) and U.S. Patent 5,529,011 (Williams, Jr.) in view of U.S. Patent 5,443,027 (Owsley et al.). In his rejection, the Examiner stated that it would be obvious to one of ordinary skill in the art to include vertically disposed wings on the control body, with the concomitant ballast means, so as to provide the cables of Williams, Jr. or Olivier et al. with the capability of both vertical displacement and lateral displacement. MPEP § 2142 provides: “[A] prior art reference [used to establish a *prima facie* case of obviousness] ... must teach or suggest all the claim limitations.” Furthermore, references are not combinable or modifiable if their intended function is destroyed. See *In re Gordon*, 221 USPQ 1125 (Fed. Cir. 1984). The references don’t show all the limitations of the claims as amended; and, furthermore, the intended function of the depth-keeping devices in Williams, Jr. and Olivier et al. would be destroyed by the modifications the Examiner states are suggested by Owsley et al.

None of the references, alone or in combination, show, for example, a shaft extending from the body of a cable control device, a wing affixed to the shaft, a drive mechanism coupled

to the shaft to rotate the wing on the shaft, an axis defined by the shaft not intersecting the cable, and ballast means for ballasting the control device to maintain the axis of the shaft largely vertically disposed. Furthermore, adding the fixed wings of Owsley et al. to the depth-keeping device of Williams, Jr. or Olivier et al. would destroy the function of the depth-keeping device because the fixed wings of Owsley et al. connected to the depth-keeping device would be subject to high lateral forces that would cause the depth-keeping device to rotate about the cable from its normal position beneath the cable to a position in which its depth-keeping wing span would no longer be generally horizontal and effective at controlling the depth of the cable. Furthermore, adding the fixed upper wing of Owsley et al. to the depth-keeping device would cause interference between the fixed upper wing and the cable from which the depth-keeping device hangs. Consequently, the obviousness rejection is improper and should now be withdrawn.

Because of the earlier restriction requirement, applicant has amended the title of the invention to read: DEVICE FOR LATERALLY STEERING STREAMER CABLES. Applicant reserves the right to file a divisional application for examination of withdrawn claims 1-17.

Applicant respectfully requests entry of the amendments and reconsideration of the rejections and allowance of claims 18-22, 24-40, and 42-69 in view of the remarks and amendments. This amendment is being mailed with a petition for a one-month extension of time. Authorization to charge the extension of time fee and any other fees deemed necessary for consideration of this response to Deposit Account No. 12-0090 is hereby given. If the Examiner thinks a telephone conference would expedite the prosecution of this application, he is invited to call the undersigned attorney.

Respectfully submitted,
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